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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,629	07/25/2003	Steven J. Jackowski	006267.00002	9627
22907 7590 07/07/2008 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051				
EXAMINER				
HAMILTON, LALITA M				
ART UNIT		PAPER NUMBER		
3691				
MAIL DATE		DELIVERY MODE		
07/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/626,629

Applicant(s)

JACKOWSKI ET AL.

Examiner

Lalita M. Hamilton

Art Unit

3691

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Lalita M Hamilton/
Primary Examiner, Art Unit 3691

Continuation of 11, does NOT place the application in condition for allowance because: The Applicant argues that neither reference discloses or teaches bandwidth restriction. In response, Cromer teaches restricting bandwidth once a threshold level is reached. Referring back to FIG. 3, the process then proceeds to decision block 304, where a determination is made whether the aggregate bandwidth utilization of a particular client is greater than a preset threshold level. Again, the threshold levels are driven by policies. In a preferred embodiment, the policy would set the threshold to a fifty percent level if the wireless LAN currently has only one active user. An active client is defined as a client that has utilized bandwidth within the predetermined time interval (i.e. 10 minutes). The policy sets the threshold level to twenty percent when there are less than ten and greater than one active clients on the wireless LAN. The policy sets the threshold level to ten percent when there are less than fifty and greater than ten active clients. Above fifty users, the threshold level is set to five percent. Of course, in alternative preferred embodiments, the thresholds can be policy driven based on other criteria other than a number of users, such as a policy based on geography, for instance. If the determination at step 304 is that the aggregate bandwidth utilization is greater than the threshold level for a given client, the process proceeds to step 306 where a determination is made whether the client that has exceeded the threshold level is on a Restricted List. The Restricted List is a list of client IP addresses for clients that have aggregate bandwidth utilizations that exceed the current threshold level. The Restricted List is stored in the access point and is accessed during step 306. If a determination at step 306 is made that the threshold exceeding client is not on the Restricted List, the process proceeds to step 308, where the threshold-exceeding client is added to the Restricted List stored in the access point. Thereafter, the process returns to step 302 to again calculate the aggregate bandwidth utilization for each active client. If a determination is made at step 306 that the threshold-exceeding client is on the Restricted List, the process returns to step 302. Referring back to decision block 304, if a determination is made that the aggregate bandwidth utilization is not greater than the threshold level for a particular client, the process proceeds to decision block 310, where a determination is made whether the particular client determined to be not utilizing aggregate bandwidth in excess of the threshold level is on the Restricted List. If the client is not on the Restricted List, the process returns to step 302, where aggregate bandwidth utilization is again calculated. If the particular client was on the Restricted List, but is determined at step 304 to no longer be exceeding the threshold level for its aggregate bandwidth utilization, the process proceeds to step 312, where the client is removed from the Restricted List. step 302 (col.8, lines 11-60).